UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAY 15 2009

Mr. Salvador Deocampo
District Engineer, Texas Division
Federal Highway Administration
Federal Office Building
300 East 8th Street, Room 826
Austin, Texas 78701

Dear Mr. Deocampo:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality Regulations (CEQ) for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Supplemental Draft Environmental Impact Statement (SDEIS) and Draft Section 4(f) for the Trinity Parkway Project. This action is the construction on either existing and/or new location of the Trinity Parkway as a limited-access toll facility from Interstate Highway (IH) 35E/SH-183 to US175/SH-310 in Dallas, Dallas County, Texas.

The DEIS provides the public and Federal, state, and local agencies with the assurance that the project sponsors have evaluated, addressed, and documented project-related social, economic, and environmental concerns. The Federal Highway Administration (FHWA), North Texas Tollway Authority (NTTA), Texas Department of Transportation (TXDOT), and the City of Dallas are the Sponsors of the Trinity Parkway project. Trinity Parkway project has been selected as one of new nationwide priority projects subject to Executive Order (EO) 13274 signed by the President on September 18, 2002. The EO was issued to enhance environmental stewardship while streamlining the decision making process for major transportation projects.

The DEIS evaluates and identifies the potential environmental impacts associated with the Build Alternatives, including the No-Action. Final selection will be based on practicability and viability which includes not only environmental but also economic costs and social impact. EPA agrees that only practicable alternatives can be implemented to meet the stated project purpose and need.

EPA agreed to be a cooperating agency in the development of the DEIS. A cooperating agency is an organization, other than the lead agency, which has jurisdiction by law or with special expertise with respect to environmental impacts due to a major Federal action that would affect the quality of the human environment. The EPA has special expertise in the areas of NEPA, Clean Air Act conformity, and Section 404 of the Clean Water Act for the disposal of

dredged or fill material. EPA's participation as a cooperating agency provided our agency the coordination opportunities and capacity to comment early in the developmental stages of the DEIS.

EPA rates the SDEIS as "**EC 2**," i.e., EPA has "Environmental Concerns to the implementation of the Trinity Parkway project." EPA has comments to offer on wetlands, water quality impacts and wildlife and habitat impact. We ask that these comments be addressed and responded to in the Supplemental Final EIS. Our enclosed detail comments are offered to complement and to more fully insure compliance with the requirements of NEPA and the Council on Environmental Quality (CEQ) regulations.

Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act to inform the public of our views on proposed Federal actions. If you have any questions, please contact Mike Jansky of my staff at (214) 665-7451 or by e-mail at jansky.michael@epa.gov for assistance.

EPA appreciates the opportunity to review the SDEIS. Please send our office five copies of the SFEIS when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20004.

Sincerely yours,

Cathy Gilmore, Chief
Office of Planning and
Coordination 6ENXP

Enclosure

MAY 1 5 2009

DETAILED COMMENTS ON THE SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT AND DRAFT SECTION 4(f) EVALUATION TRINITY PARKWAY PROJECT CITY OF DALLAS, DALLAS COUNTY, TEXAS

The following comments are offered for consideration in finalizing the Supplemental Draft Environmental Impact Statement.

Wetland Comments

Our concerns are about wetlands impacts and floodplain constriction/reduction. Certainly the City of Dallas is aware of floodplain concerns, and has addressed this in great detail . . . we simply urge that at the end of the day the Trinity is able to handle a greater volume of floodwater than before the project.

Wetlands impacts appear unavoidable, and since any impacts will be between the levees we urge the City of Dallas to minimize any impacts in this area, which they address in the SDEIS. Mitigation, as described in Appendix J, appears consistent with what is currently being done. Greater wetlands functions and values for mitigated wetlands and existing wetlands can be achieved with reduced or altered mowing regimes within the floodway.

The City of Dallas is currently creating wetlands as part of a SEP for EPA. The areas must be avoided by any alignment chosen, and not included as available areas for mitigation. This project is occurring as part of a Consent Decree between U.S. Department of Justice and the City of Dallas.

In summary, as long as the selected alternative does not increase flooding and fully mitigated with as many trees as possible, EPA is of the opinion the applicant has satisfied the Section 404 (b)(1) guidelines under Section 404 of the Clean Water Act.

Water Quality Comments

1. Section 4.12.3, page 4-128: We are unsure where the cited EPA "acute toxicity threshold levels for human health" came from. The listed values do not accurately reflect EPA's recommended human health water quality criteria. We refer the authors to EPA's National Recommended Water Quality Criteria for Priority Pollutants at the following web page for all applicable copper, lead, and zinc criteria for the protection of aquatic life and human health: http://www.epa.gov/waterscience/criteria/wqctable/index.html

2. EPA recommends that the provided pollutant concentrations in highway runoff (Table 4-39) be discussed within the context of both human health criteria as well as aquatic life criteria. We also refer the authors to Texas Council on Environmental Quality's (TCEQ)'s water quality standards and the applicable criteria for toxics protecting both aquatic life and human health at the following website (click on §307.6 – Toxic Materials):
http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=307&rl=Y

3. Once at 307.6, click on the attached graphics for criteria tables. These are the applicable criteria to all waters in the state and are enforceable under the Clean Water Act. Please note that aquatic life criteria for copper, lead, and zinc are hardness (as $CaCO_3$) based. The segment specific hardness value for segment 0805 (Upper Trinity River) is 134 mg/L.

Wildlife and Habitat Impact Comments

1. No Biological Assessment is included in the SDEIS. The reason given is that a preferred alternative has not been identified, but will be included in the SFEIS. The comment period for an FEIS is reduced to 30 days and usually there are no follow up activities, such as public meetings where further discussion on a preferred alternative could occur. The lack of a draft BA and draft mitigation plans does not assist the public or other agencies in providing meaningful comments on the alternatives or an environmentally-preferred alternative.

2. P. 3-59, Regional and local Setting: It is unclear from the text and tables (e.g., Tables 3-12 through 3-16) whether biological data were collected from the actual project location or whether Chapters 3 and 4 rely on literature searches and state databases. If the SDEIS relies solely or primarily on this type of non site-specific data without actually conducting sampling within the project boundary, it would be difficult to adequately ascertain what species were present and similarly difficult to assess the potential impacts and environmental consequences.

3., P. 4-5 "Wildlife and wetland preservation and mitigation plans, including special considerations for ecosystem restoration and wildlife passage across the corridor such as at major floodplain areas or other highly traveled areas;"

When considering mitigation opportunities for ecosystem restoration, the SDEIS should take into account the type of ecosystem services the environment provides and should consider selecting locations that increase connectivity of habitat and decrease fragmentation. The information provided in the Texas Ecological Assessment Protocol (TEAP) could assist in this regard. The TEAP is available at http://www.epa.gov/region6/6en/xp/enxp2a4.htm.

4. P. 4-115. "Habitat used by wildlife species is a complex matter. Wildlife diversity and density correlate strongly with vegetation diversity and the type, degree, and frequency of disturbances to which an area's vegetation is subjected. Therefore, for the purposes of evaluating the potential impacts to wildlife resources of the proposed roadway project, vegetation impacts serve as a useful indicator of the magnitude of the various wildlife habitats. For this reason, Table 4-37 provides useful data in this assessment."

There are a number of Habitat Suitability Indices (HSI) that could be selected and calculated for representative species (assuming basic field work and sampling has occurred) in order to analyze the amount and type of habitat used by different species. Ecosystem services are the benefits humans derive from nature. The concept of ecosystem services encompasses natural renewable resources and processes that are essential to human well being like clean water, clean air, and a host of other services that have not been traditionally incorporated into cost-benefit analyses, but can be considered. The concepts of ecosystem services and sustainability are interconnected. If use of ecosystem services exceeds the environment's capacity to perform those services, then the activity is not sustainable over time. The trees and vegetation identified in the SDEIS provide ecosystem services and removal of trees and vegetation (as indicated in Table 4-37) may have more than direct impacts (e.g., soil stabilization, food, habitat, carbon sequestration).

5. P 4-116, "A search of the Natural Diversity Database (NDD), maintained by the Texas Parks and Wildlife Department to track known occurrences of rare biological resources, identified two rookeries within the search area (i.e. 10 mile search radius from the proposed project)."

Reliance on the NDD as the sole source of identification of rookeries and other locations within the project boundary where bird species may gather is inadequate. Field studies that collect data systematically are needed to determine whether there are additional rookeries or nesting areas that are not in the NDD. There are several books and manuals that outline ecological field methods appropriate for specific taxonomic groups.

6. P 4-116-117, "Migration patterns would not likely be affected; however, a survey of these areas would be conducted prior to construction to verify if any migratory birds are found in the project area. In the event that migratory birds are encountered on-site during project construction, every effort will be made to avoid take of protected birds, active nests, eggs, and/or young. The contractor would remove all old migratory bird nests between September 1 and January 31 from any structure where work will be done. In addition, the contractor would be prepared to prevent migratory birds from building nests between February 1 and August 31. Therefore, the requirements for the MBTA appear to be satisfied."

It is unclear how the SDEIS determined that migratory patterns are not likely to be affected when there are no data or analysis (other than lack of observations in the NDD) to support these statements. It is also not clear what an MBTA permit is not required if rookeries or other nesting areas are removed.

7., P. 4-221, "It is expected that city landscaping requirements for site development would mitigate the loss of the limited habitat represented by vacant lots and existing commercial sites, and may benefit wildlife with the addition of landscaping trees."

It is unclear how beneficial indirect impacts to wildlife were determined, given that no site-specific field sampling was performed to investigate the species richness and abundance of plant and animal populations within the project boundary and more specifically, the DFE and Dallas Floodway.

8. P. 4-221, "Construction of Dallas Floodway Build Alternatives would result in a minor degree of habitat fragmentation and loss of habitat continuity (see Section 4.9). That is, habitat associated with Dallas Floodway levees would become separated from habitat in the floodplain. These types of impacts could also affect the processes and functions of communities including seed dispersal, reproductive activities, and the cycling and transfer of nutrients. In light of the limited size and maintained nature of the habitat associated with levees, habitat fragmentation impacts are not considered to be substantial. Road kills may also affect biological resources, although no endangered species would conceivably be affected."

It is difficult to determine whether potential impacts to wildlife habitat due to fragmentation was assessed because little information is provided (e.g., there does not seem to be any field studies or surveys to determine what species exist in the area). In order to determine the impacts to biota due to the project and the potential fragmentation impacts, more detailed fragmentation or connectivity studies or modeling should be performed. Several software packages are available and are well established (e.g., FRAGSTATS, APACK, etc.) and take into account the data needs mentioned in Section 4.9 (p.4-112).

Road kills may be an issue for species other than those classified as federally threatened or endangered. There are no data or analyses provided to support the statements that road kill will not be a significant issue, particularly as construction proceeds. There is a large body of scientific literature regarding the effects of roads on biota, including the effects on migration and on deposition of substances on medians and shoulders.

9. P. 4-231, Table 4-54. "Excluded because wildlife populations are largely limited to the Dallas Floodway, and have become adapted to the disturbances common to an urbanized environment (e.g., noise, traffic, human presence, street lighting). While impacts to wildlife from Floodway alternatives are anticipated, assessing the impacts of a roadway on wildlife populations would be a complex process, requiring information about individual species that is not available and not obtainable with reasonable efforts. Inferences about impacts to wildlife have therefore been focused on changes to aquatic and terrestrial habitat (e.g., woodlands and jurisdictional waters)."

Field surveys of biota are reasonable given the magnitude of this project. Please explain why field studies are unreasonable. The data collected by these field studies could be used in habitat suitability index (HSI) models for representative species in order to quantify the habitat used, its value to animals, and the potential impact of removal. Neither basic field studies of biota (i.e., small mammals, bird counts, plant transects, etc.), nor habitat suitability indices seem to have been investigated or performed. The assessment provided in the SDEIS (including the indicators listed in Table 4-55) is qualitative and seems inadequate, given that well-established quantitative methods exist.

10. P. 4-246 "The Trinity River Corridor is located within the most severely altered of Texas' ecoregions - the Blackland Prairie. Most of this ecoregion has been converted from its natural condition to crops or development (TPWD, 2002a)."

Since this project is located in one of the most severely altered ecoregions (i.e., blackland prairie), mitigation should be more specific and focus on preserving any remaining prairie, linking remnants, and restoring areas with native prairie plant species.

11. P. 4-289 "As cumulative impacts to high quality wildlife habitat (woodlands) are expected to be beneficial, further mitigation should not be needed. Cumulative impacts to maintained grass-dominated areas would be substantial, but mitigation is expected to be limited."

It is unclear how beneficial cumulative impacts to wildlife was determined, given that no site-specific field sampling was performed to investigate the species richness and abundance of plant and animal populations within the project boundary and more specifically, the DFE and Dallas Floodway. Please explain and/or refer to page number where this discussion occurs.